IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAYOF OCTOBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 16779 of 2004

Between:

1. K.Sreenivasulu, S/o Late Ramachandra,
   R/o Vandadivaripalli, H/o Pothabollu Madanapalli Mandal,
   Chittoor District.
2. Smt K.Salamma, W/o Late Ramachandra,
   R/o Vandadivaripalle, H/o Pothabollu, Madanapalle Mandal,
   Chittoor District.

..... PETITIONERS

AND

Assistant Engineer, Sanitorium Distribution, A.P.Transco, Madanapalle,
Chittoor District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more in the nature of Writ of Mandamus declaring the action of the respondent in disconnecting the Electricity Sy.No.768 of Sanitorium distribution area Madanapalle, Chittoor District as illegal, arbitrary, unconstitutional and violative of Arts.14,21 and 300-A of the Constitution of India and also violative of principles of natural justice.

Counsel for the Petitioners: MR.P.JAGADISH CHANDRA PRASAD

Counsel for the Respondent: MRS.M.VINOBHA DEVI (SC FOR AP TRANSCO)

The Court made the following :

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ORDER:

The petitioners claim to be in occupation of land in plot Nos.1 and 2 situated in Sy.No.189 of Pothabolu Revenue village, Madanapalli Mandal, in pursuance of the pattas granted on 05.05.1991. It is stated that they are residing in small sheds raised on the said lands and have been carrying out agricultural operations in the adjacent land available in the said plots by drawing water from the borewell by fixing a pump with oil engine. For the purpose of running the bore wells, they have obtained service connection No.768 under Thathkal scheme. It is alleged that the respondent, without any notice to the petitioners, disconnected the said service connection. It is claimed that there are absolutely no arrears of electricity consumption charges, and therefore the action of the respondent in disconnecting the power supply without there being any justifiable reason is arbitrary and illegal. Hence this writ petition seeking a declaration that the action of the respondents in disconnecting the power supply is arbitrary and illegal.

On behalf of the respondent, a counter affidavit has been filed stating that the petitioners were granted the service connection No.768 in respect of survey No.185 of Vandadivaripalli village H/O Pothabolu, Madanapalle Mandal on 05.01.2003 with a connected load of 5 HP. However, the petitioners dug a borewell in Sy.No.189 which is a vanka poramboke and shifted the said service connection to Sy.No.189 unauthorisedly. Since the petitioners shifted the service connection unauthorisedly to vanka poramboke land, the Mandal Revenue Officer, Madanapalli conducted an enquiry and directed the respondent's office to disconnect the service connection. Accordingly the respondent has disconnected the power supply to the petitioners' agricultural land situated in Sy.No.189 since they have illegally and unauthorisedly shifted the service connection. It is also stated that the petitioners have also committed default in payment of the consumption charges and a sum of Rs.3,754/- is due as on August, 2004. Thus it is contended that the petitioners are not entitled for restoration of power supply.

Heard the learned counsel for the petitioners and the learned Standing Counsel appearing for the respondent.

As can be seen from the counter affidavit, the allegation is that the petitioners have shifted the service connection from Sy.Nos.185 to 189, without obtaining any prior permission from the competent authority. If that be so, it is for the petitioners to approach the respondent by making an appropriate representation seeking restoration of power supply, in which event the respondent will make the necessary enquiry into the allegation and take the necessary action in accordance with law. Even if the alleged shifting of service connection is found to be correct, the respondent may consider the possibility of regularization of the existing service connection and restoration of power supply if the same is permissible under law since the petitioners state that they have already raised crops on the land in Sy.No.189.

Accordingly, the Writ Petition is disposed of granting leave and liberty to the petitioners to make an appropriate representation before the respondent-Assistant Engineer, Sanitorium Distribution, explaining the allegation that they have unauthorizedly shifted the service connection. In the event of making such representation, the respondent shall consider the same and pass appropriate orders in accordance with law as indicated above as expeditiously as possible, preferably within a period of two weeks from the date of receipt of the representation.

So far as the alleged arrears are concerned, learned counsel for the petitioners states that as per the recent instructions issued by the Government the arrears if any, from the agriculturists shall be waived and therefore, the respondent cannot insist for payment of the alleged arrears. It is open to the petitioners to raise the said plea before the respondent, and if such benefit is available as per the Government instructions, the same be extended to the petitioners for waiver of the alleged arrears.

With the above directions, the writ petition is disposed of. No costs.

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05.10.2004

Note: Issue C.C. in two days.

(B/O)

sh/vs

To

1. The Assistant Engineer, Sanitorium Distribution, A.P.Transco, Madanapalle, Chittoor District.

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